DECISION THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-215892   **DATE:**   October 1, 1984

MATTER OF: Aero Systems, Inc.

DIGEST:

1. Specification requiring pilot to meet specific certification requirements and to provide, with the proposal, evidence of compliance establishes definitive responsibility criteria and GAO will review protest that contracting officer failed to apply this criteria to the awardee.

2. Contracting officer properly found awardee met definitive responsibility criteria where awardee possesses Canadian government permit and obtaining this permit meant that the proposer had to meet the same requirements as those in the certificate specified in the RFP.

    Aero Systems, Inc. (Aero), protests the award of an air-taxi service contract to Kenn Borek Air Ltd. (Borek) under the National Oceanic and Atmospheric Administration (NOAA) request for proposals (RFP) No. WASC-84-001-841. Aero alleges that Borek failed to meet the RFP's certification requirements and, therefore, was not qualified to receive the contract award.

    As a condition of award, section "C," paragraph 5, of the RFP provided:

> "Pilot and/or co-pilot . . . shall meet all requirements of the operators FAR 135 certificate . . .. The contractor shall submit Pilot's Qualifications statement for all pilots that may be utilized under this contract. Information from these statements will be used in evaluating the pilots qualifications. Only those individuals whose past experience can be verified will be considered for use on this contract."

    Aero's protest that Borek does not hold a Federal Aviation Regulation (FAR) 135 operator's certificate and is, therefore, ineligible to receive a contract award concerns the contracting officer's affirmative determination that

Borek is a responsible firm. See U.S. Jet Aviation,
B-214093, May 25, 1984, 84-1 C.P.D. ¶ 575. This Office will
review a protest against a contracting officer's affirmative
finding that a firm is responsible where the protester
alleges that, in making that determination, the contracting
officer failed to apply definitive responsibility criteria.
King-Fisher Company, B-205003, June 16, 1982, 82-1 C.P.D.
¶ 592. We find that the RFP established definitive
responsibility criteria since it enunciated specific and
objective factors with which pilots had to comply and
required offerors to submit, before contract award, evidence
that the pilots and/or co-pilots they intended to utilize in
performing the NOAA contract met these requirements. See
id.; E.C. Campbell, Inc., B-204253, Feb. 2, 1982, 82-1
C.P.D. ¶ 76. Thus, we will review Aero's protest to
determine if the contracting officer applied the require-
ments of the RFP in determining Borek to be responsible.

     NOAA first asserts that, contrary to Aero's position,
the RFP did not require the pilot to hold an operator's FAR
135 certificate, but only to meet the requirements·of the
certificate. In this regard, NOAA reports that Borek, a
Canadian company, holds a permit granted by the Canadian
licensing authority which is the equivalent of the FAR 135
certificate. NOAA thus concludes that it properly
determined that Borek is a responsible firm.

     Insofar as Aero asserts that the RFP required offerors
to hold an operator's FAR 135 certificate, we believe that
NOAA's position, supported by the specification's exact
language that offerors only had to meet the requirements of
the certificate, is reasonable. See King-Fisher Company,
B-205003, supra. In any event, an agency may find that an
offeror meets definitive responsibility criteria where the
offeror does not meet the precise criteria, but has clearly
demonstrated that it has equivalent capability. Haughton
Elevator Division, Reliance Electric Company, 55 Comp. Gen.
1051, 1056 (1976), 76-1 C.P.D. ¶ 294; Sillco, Inc.,
B-188026, Apr. 29, 1977, 77-1 C.P.D. ¶ 296. Thus, since
Aero has not shown that Borek's Canadian license is not
equivalent to a FAR 135 certificate, we have no basis to
object to NOAA's determination that Borek met the definitive
responsibility criteria.

     The protest is denied.

                                   Comptroller General
                                   of the United States